IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

COCP No.1165 of 2006
Date of decision: October 31, 2006.

Salim

...**Petitioner(s)**

v.

Sh. S.K. Dutta & Ors.

...**Respondent(s)**

Present: Shri Shammi Khan, Advocate for the petitioner.

Shri G.S. Cheema, Sr. Dy. Advocate General, Punjab for the respondents.

Surya Kant, J. (Oral)

The petitioner filed Crl. Misc. No.31630-M of 2006 seeking a direction for his release on parole. The aforesaid petition was disposed of by this Court on May 25, 2006 with a direction that the petitioner's case for releasing him on parole shall be decided within a period of two months.

Alleging non-compliance of the above stated order, this contempt petition has been filed.

On September 7, 2006, Learned State Counsel was asked to seek instructions in the matter.

Pursuant thereto, Shri Cheema, learned Sr. DAG, Punjab, has filed affidavits of respondents No.1 and 2 respectively which are taken on record.

From the averments made in the aforesaid affidavits,it is apparent that respondents No.1 and 2 have made more than one references

to the District Magistrate, Muzaffar Nagar, including vide letter No.3964/65 dated 25.5.2005, however, the report of the District Magistrate, Muzaffar Nagar is still awaited. In the absence of that report and keeping in view the provisions contained in the Good Conduct Prisoners (Temporary Release) Act, 1962, it is apparent that the petitioner cannot be released on parole unless the requisite report is received from the District Magistrate concerned.

The petitioner himself has placed on record a copy of memo No.3964 dated 25.5.2005 (Annexure P-2) vide which the Superintendent Central Jail, Patiala had forwarded the petitioner's case to the District Magistrate, Muzaffar Nagar for sending the requisite report.

From the above noted facts, it appears that while respondents No.1 and 2 have done the needful,the District Magistrate, Muzaffar Nagar, despite several communications, has not sent the required report. From the order dated May 25, 2006, Annexure P-4, it is not clear as to whether the District Magistrate, Muzaffar Nagar was also a party to those proceedings or not.

Consequently, this petition is disposed of with a direction to the District Magistrate, Muzaffar Nagar to consider the reference already received by him from the Superintendent, Central Jail, Patiala and send the requisite report to the authorities within one month. If based upon the said report, any adverse order is passed against the petitioner, he will be at liberty to approach the appropriate forum, if so advised.

October 31, 2006. [**Surya Kant**]
kadyan **Judge**